

City Council Minutes
April 3, 2012

Regular Meeting
City Hall Council Chambers

Tuesday, April 3, 2012
6:00 p.m.

The regular meeting was called to order by Chairman Jerry Goss.
The city clerk called the roll:

Councilor Ferris	-	present	Councilor Doughty	-	present
Councilor Verow	-	present	Chairman Goss	-	present
Councilor O'Connell	-	present			

Chairman Goss declared a quorum present. City Manager Bost and City Solicitor Dearborn were also present.

Chairman Goss led members of the council and others present in reciting the pledge of allegiance to the flag of the United States of America.

Chairman Goss read the notice for the regular meeting.

TO: Joseph Ferris, Larry Doughty, Arthur Verow, Jerry Goss and Kevin O'Connell
MEMBERS OF THE BREWER CITY COUNCIL You are hereby notified a regular meeting of the City Council will be held on Tuesday, April 3, 2012 at 6:00 p.m. in the Council Chambers at Brewer City Hall to consider and act on the items on the attached agenda.

s/Jerry Goss
Mayor and Chairman of the City Council

or _____
Majority of the City Council

a true copy, attest: s/Howard F. Kroll
City Clerk

OFFICER'S RETURN

I have on the date(s) and time(s) indicated given notice of this meeting by giving in hand or by leaving at the usual dwelling place of the within named an attested copy of this notice of meeting:

Given/Delivered to:	by (person delivering)	Title	Date	Time
Joseph Ferris	Wilson	Ptl.	03/30/12	1802
Larry T. Doughty	Pinette	Sgt.	03/30/12	1730
Arthur Verow	Pinette	Sgt.	03/30/12	1735
Jerry Goss	Pinette	Sgt.	03/30/12	1745
Kevin O'Connell	Wilson	Ptl.	03/30/12	1809

CITY COUNCIL REGULAR MEETING
Tuesday, April 3, 2012 6:00 P.M.
Brewer City Hall Council Chambers

- I. Call to Order.** (Mayor Jerry Goss)
- II. Roll Call.** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America.** (Mayor Goss)
- A. Minutes of March 13, 2012 Regular Meeting.** (Councilor Verow)
- B. Awards, Petitions and Public Comments.**
 - 1. (2012-B012) RESOLVE, Congratulate the Brewer High School Jazz Ensemble for Earning First Place at the 2012 Berklee Jazz Festival in Boston, Massachusetts. (Councilor O'Connell)
 - 2. (2012-B013) RESOLVE, Keith A. Bradford for 30 Years of Service to the City of Brewer. (Councilor O'Connell)
 - 3. (2012-B014) RESOLVE, Recognize Marcus Eaton and Victor Irwin for Their Individual 2011-2012 Wrestling Class A Individual State Titles. (Councilor Ferris)
 - 4. (2012-B015) RESOLVE, Recognize Rowan Bost and Emily Mills, 2012 Maine McDonald's Academic All Star Academic Team Award Recipients. (Councilor O'Connell)
 - 5. Update on Bicentennial Activities- Gibran Graham
 - 6. Public Comments.
- IV. Recess for Public Hearing.**

Application for Mei Ya Zhang, 274 State Street for State of Maine Restaurant Class I, II, III, IV (malt, spirituous and vinous) Liquor License.
- V. Adjourn Public Hearing and Continue with Regular Meeting**
- C. Consent Calendar.**
 - 1. (2012-A056) ORDER, Accept Contribution to the Brewer Public Library from Weathervane Seafoods to Show Support for the Legos Club. (Councilor Ferris)
 - 2. (2012-A057) ORDER, Accept Grant to the Brewer Public Library from the Rose and Samuel Rudman Library Trust and Authorize the Use of these Funds for Audio/Visual Needs at the Library. (Councilor Verow)
 - 3. (2012-A058) ORDER, Authorize the City Manager to Accept and Use Funds for the 2012 Stream Cleanup Program. (Councilor O'Connell)

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4. (2012-A059) ORDER, Approve Contract Zone Agreement Amendment of Property for the Housing Authority of the City of Brewer, Chamberlain Street/Cutler Place (City Tax Map 39, Lot 39). (Councilor Verow)
5. (2012-A060) ORDER, Issue Release Deed to John Caldwell, 7 Prospect Street. (Councilor Doughty)
6. (2012-A061) ORDER, Accept ~~Funds~~ Firearms in a Forfeiture Resulting from a Recent Court Case that the Brewer Police Made a Substantial Contribution in the Successful Prosecution of. (Councilor O'Connell)
7. (2012-A062) ORDER, Review Chapter 38 of the Code of Ordinances Provisions on Impact Fees. (Councilor Verow)
8. (2012-A063) ORDER, Authorize Contract for Wetland Mitigation Monitoring, Treatment and Reporting Services. (Councilor Doughty)
9. (2012-A064) ORDER, Authorize Funding for Doyle Field Study. (Councilor Ferris)
10. (2012-A065) ORDER, Abate Uncollectible Personal Property Taxes. (Councilor O'Connell)
11. (2012-A066) ORDER, Adopt a Post Bond Issuance Compliance Policy. (Councilor Verow)
12. (2010-A067) ORDER, Accept Funds in Support of the Brewer Bicentennial Celebration. (Councilor Ferris)
13. (2012-B016) RESOLVE, Approve Liquor License Application of Mei Ya Zhang d/b/a Awesome Buffet, Inc., 274 State Street. (Councilor Doughty)

D. Monthly Reports. (none)

E. Nominations, Appointments, Elections.

1. (2012-A068) ORDER, Issue Warrant for June 12, 2012 City of Brewer School Budget Approval and City of Brewer Charter Amendment Election and Set Polling Hours for June 12, 2012 City of Brewer School Budget Approval and City of Brewer Charter Amendment Election and State of Maine Primary and Referendum Election. (Councilor Verow)
2. (2012-B017) RESOLVE, Prescribe Registrar of Voters Hourly Schedule for the June 12, 2012 City of Brewer School Budget Approval and City of Brewer Charter Amendment Election and State of Maine Primary and Referendum Election. (Councilor Doughty)

F. Unfinished Business.

1. (2012-C002) Amend Chapter 8, Entitled "Elections", Article 4, Brewer Registration Appeals Board, Section 405, Rules for Conducting the Meetings, of the Charter, Codes and Ordinances of the City of Brewer. (Councilor O'Connell)(posted 3/14/12)
2. (2012-C003) Amend Chapter 5, Entitled "Assessor", Article 2, The Board of Assessment Review, Section 206, Rules of Order, of the Charter, Codes and Ordinances of the City of Brewer. (Councilor Ferris) (posted 3/14/12)

G. New Business.

1. (2012-C004) Amend the Land Use Code, Chapter 24 of the Charter, Codes And Ordinances of the City of Brewer to Change Property from Professional Business District (PB) to General Business District (GB) in the Area of Dirigo Drive , Green Point Road and Sparks Avenue (City Tax Map 7, Lots 7G, 7J, 16, 16B, 16C and also the Parcel on Dirigo Drive Being a Portion of Book 7294, Page 333 Second Parcel[which is a triangle-shaped parcel abutting Tax Map 7, Lot 7J]). (Councilor Verow)
2. (2012-C005) Amend Chapter 1, Entitled "The City Council", Article 5, City Boards, Committees and Commissions, Section 502.6 of the Charter Codes and Ordinances of the City of Brewer. (Councilor Ferris)
3. (2012-A069) ORDER, Referral to the City of Brewer Planning Board by City Council Initiative Pursuant to Chapter 24, Land Use Code of the City of Brewer, Article 1 General Section 108.1 Initiative to Amend. (Councilor Verow)
4. (2012-A070) ORDER, Convene in Executive Session Pursuant to Title 1, M.R.S.A. §405(6)(E) on a Legal Matter. (Councilor O'Connell)
5. (2012-A071) ORDER, Convene in Executive Session Pursuant to Title 1, M.R.S.A. §405(6)(A) on a Personnel Matter. (Councilor Ferris)

H. New Items with Leave of Council.

I. ADJOURN.

A. Minutes of February 14, 2012 Regular Meeting.

ACTION: Councilor Verow moved that the minutes be accepted and placed on file. The motion was seconded and passed by unanimous vote.

B. Awards, Petitions and Public Comments.

2012-B012

April 3, 2012

TITLE: RESOLVE, CONGRATULATE THE BREWER HIGH SCHOOL
JAZZ ENSEMBLE FOR EARNING FIRST PLACE AT THE
2012 BERKLEE JAZZ FESTIVAL IN BOSTON,
MASSACHUSETTS.

filed March 28, 2012
by Kevin O'Connell

WHEREAS, the Brewer High School Jazz Ensemble competed at the 2012 Berklee Jazz Festival; and

WHEREAS, the group of 21 high school members played pieces of contrasting styles which showed the diverse talents of the jazz ensemble; and

WHEREAS, the Brewer High School Jazz Ensemble earned first place at the 2012 Berklee Jazz Festival over 15 other bands; and

WHEREAS, the Brewer City Council wishes to formally recognize the jazz ensemble and its director for their hard work and determination to earn first place at the 2012 Berklee Jazz Festival;

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council on behalf of the Citizens of the City of Brewer, Maine, herewith recognizes and congratulates the Brewer High School Jazz Ensemble for earning this first place award.

ACTION: Councilor O'Connell moved that the resolve be adopted. The motion was seconded and passed.

Councilor O'Connell read the resolve into the record.

The resolve was adopted by unanimous vote.

2012-B013

April 3, 2012

TITLE: RESOLVE, RECOGNIZE KEITH A. BRADFORD FOR 30 YEARS
OF SERVICE TO THE CITY OF BREWER.

filed March 28, 2012
by Kevin O'Connell

WHEREAS, Keith A. Bradford has exceeded the milestone of more than 30 years of dedicated service to the City of Brewer as an employee of the Public Works Department; and

WHEREAS, Keith began his career in the Public Works Department on August 27, 1980 as a Light Equipment Operator trainee through the CETA employment training program; and

WHEREAS, through hard work and dedication Keith showed his worth to the Department and was promoted to Heavy Equipment Operator in October 1989; and

WHEREAS, over the years Keith has continued to provide the City with a high level of service and caring for the Brewer community which he still serves and also lived in for numerous years;

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council, on behalf of the Citizens of Brewer, herewith recognizes and commends Keith A. Bradford for his many years of outstanding dedicated service to the citizens of the City of Brewer as a trusted and valuable employee of the Brewer Public Works Department; and

FURTHER RESOLVED, that this resolution be spread upon the permanent records of the City of Brewer in testimony of the appreciation held for Keith A. Bradford by the citizens and officials of the City of Brewer, Maine.

ACTION: Councilor O'Connell asked that the resolve be withdrawn at this time. The motion was seconded and passed by unanimous vote.

The resolve was withdrawn.

2012-B014

April 3, 2012

TITLE: RESOLVE, RECOGNIZE MARCUS EATON AND VICTOR IRWIN FOR THEIR INDIVIDUAL 2011-2012 WRESTLING CLASS A INDIVIDUAL STATE TITLES.

filed March 28, 2012
by Joseph Ferris

WHEREAS, Marcus Eaton and Victor Irwin, Brewer High School students, recently competed in Windham for individual 2011-2012 Wrestling Class A State Championship honors; and

WHEREAS, Marcus and Victor faced stiff competition from talented wrestlers from across the State of Maine; and

WHEREAS, Marcus and Victor earned reputations as hard working, inspirational and motivated young athletes, both emerged victorious in their respective weight class earning them 2011-2012 Wrestling Class A Individual State Titles; and

WHEREAS, it is the sense of the City Council and other City officials that these individual honors as 2011-2012 Wrestling Class A Individual State Champions are just one of the many achievements Marcus and Victor will accomplish in their lifetimes;

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council, on behalf of the Citizens of the City of Brewer, herewith extends its congratulation to Marcus Eaton for his title as the 2011-2012 Wrestling Class A individual State Champion (285 lb class) and to Victor Irwin for his title as the 2011-2012 Wrestling Class A Individual State Champion (195 lb. class).

ACTION: Councilor Ferris moved that the resolve be adopted. The motion was seconded and passed.

Councilor Ferris read the resolve into the record.

The resolve was adopted by unanimous vote.

2012-B015

April 3, 2012

TITLE: RESOLVE, RECOGNIZE ROWAN BOST AND EMILY MILLS, 2012 MAINE MCDONALD'S ALL STAR ACADEMIC TEAM AWARD RECIPIENTS.

filed March 28, 2012
by Kevin O'Connell

WHEREAS, Rowan Bost and Emily Mills, Brewer High School students, recently were selected by a panel of leaders from Maine's High School basketball coaching to be members (along with 19 other High School Seniors from around the State of Maine) of the 2012 Maine McDonald's All Star Academic Team; and

WHEREAS, to be eligible for the team each student must meet the following criteria

- Achieve a grade point average of 90 or better for seven consecutive semesters;
- Be a member of their school's varsity basketball team for at least two complete seasons;
- Make a significant contribution to their team during 2011-2012 season; and

WHEREAS, Rowan and Emily have shown to be standouts in our local community for their dedication to scholastic achievement and team sports;

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council, on behalf of the Citizens of the City of Brewer, herewith extends its congratulation to Rowan Bost and Emily Mills for their achievement of becoming two of the twenty-one High School Senior 2012 Maine McDonald's All Star Academic Team members.

ACTION: Councilor O'Connell moved that the resolve be adopted. The motion was seconded and passed.

Councilor O'Connell read the resolve into the record.

Chairman Goss present Rowan Bost with an attested copy of the resolve.

The resolve was adopted by unanimous vote.

UPDATE ON BICENTENNIAL ACTIVITIES – GIBRAN GRAHAM

Presented to the City Council an outline of the Bicentennial Celebration. Historical luncheon series, performing arts series with dates to be determined, Children's Garden Day, Golf Scramble, etc.

Mr. Graham will be added to the agenda each month to bring updates to the City Council.

PUBLIC COMMENTS.

Chuck Somers, 19 High Street, spoke about the concert series in Bangor, what rights do we have on this side of the river, sound is insanely loud. Council will keep an eye on the noise level during the concert season.

Manley DeBeck, 25 Goupee Street, spoke about the State/Federal Government agencies that will be at the Auditorium between 3-8 p.m. tomorrow. They will talk about the proposed I-395 project.

PUBLIC HEARING: Application for Mei Ya Zhang, 274 State Street for State of Maine Restaurant Class I, II, III, IV (malt, spirituous and vinous) Liquor License.

The public hearing was called to order by Chairman Jerry Goss.
The city clerk called the roll:

Councilor Ferris	-	present	Councilor Doughty	-	present
Chairman Goss	-	present	Councilor O'Connell	-	present
Councilor Verow	-	present			

Chairman Goss declared a quorum present.

**CITY OF BREWER
PUBLIC NOTICE**

Notice is hereby given that the Brewer City Council will hold a public hearing on Tuesday, the 3rd day of April, 2012 at 6:00 p.m. in the Council Chambers at Brewer City Hall to consider the application for a State of Maine Class I, II, III and IV (malt, spirituous and vinous) liquor license for the following applicant:

1. Mei Ya Zhang d/b/a Awesome Buffet, Inc., 274 State Street, Brewer, Maine

This application is available for public inspection at the office of the **Brewer City Clerk (989-7050)** and this notice is posted on the bulletin board at Brewer City Hall.

Any person may attend this public hearing and speak on this application. Written comments may also be submitted. The deadline for submission of written comments is 12:00 p.m. on the date of the hearing. Written comments should be addressed to Brewer City Council, c/o City Clerk, 80 No. Main Street, Brewer, Maine 04412.

Howard F. Kroll
City Clerk

published March 26, 27 and 28, 2012
in the Bangor Daily News

There were no public comments.

V. Adjourn Public Hearing and Continue with Regular Meeting

Public Hearing adjourned at 6:35 p.m.

The city clerk called the roll and all were present.

Chairman Goss said the regular meeting would resume.

C. Consent Calendar.

ACTION: Councilor Doughty removed orders 2012-A059 and A063. Councilor Verow removed order 2012-A061 and A062.

Councilor Verow moved that the remaining orders on the consent calendar have passage and the resolve be adopted. The motion was seconded and passed by unanimous vote.

2012-A056

April 3, 2012

TITLE: ORDER, ACCEPT CONTRIBUTION TO THE BREWER PUBLIC
LIBRARY FROM WEATHERVANE SEAFOODS TO SHOW
SUPPORT FOR THE LEGOS CLUB.

filed March 28, 2012
by Joseph Ferris

WHEREAS, the Brewer Public Library has received a contribution of \$140.82 from Weathervane Seafoods as part of their giving back to the community program; and

WHEREAS, the library would like the funds to be used for the Legos @ the Library Program;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts the contribution of \$140.82 from the Weathervane Seafoods; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the funds be deposited in 0107204-300420 (Library Contributions/Donations) and be appropriated and expended from Special Event line item 0117201 506150) for the Legos @ the Library Program.

Note: the Brewer Public Library sends a letter of acknowledgement and appreciation on behalf of the City Council and the Library to all who contribute to the library.

2012-A057

April 3, 2012

TITLE: ORDER, ACCEPT GRANT TO THE BREWER PUBLIC LIBRARY FROM THE ROSE AND SAMUEL RUDMAN LIBRARY TRUST AND AUTHORIZE USE OF THESE FUNDS FOR AUDIO/VISUAL NEEDS AT THE LIBRARY.

filed March 28, 2012
by Arthur Verow

WHEREAS, the Brewer Public Library has received a grant of \$350 from the Maine community Foundation: Rose and Samuel Rudman Library Trust; and

WHEREAS, the grant funds are designated to supplement the audio and visual department of the library;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts the contribution of \$350 from the Rose and Samuel Rudman Library Trust (Maine Community Foundation); and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the funds be deposited in 0600072-360000-72018 (Rudman 2012 Grant Rev) and be appropriated and expended from 0600072-560000-72018 (Rudman 2012 Grant Exp).

Note: the Brewer Public Library sends a letter of acknowledgement and appreciation on behalf of the City Council and the Library to all who contribute to the library.

2012-A058

April 3, 2012

TITLE: ORDER, AUTHORIZE THE CITY MANAGER TO ACCEPT AND USE FUNDS FOR THE 2012 STREAM CLEANUP PROGRAM.

filed March 28, 2012
by Kevin O'Connell

WHEREAS, the City of Brewer will hold its Stream Cleanup on May 12, 2012 with a date of May 19, 2012 as the rain date; and

WHEREAS, a number of private companies and individuals have or will donate monies, materials and supplies for this event in order to make it more successful for the citizens of Brewer;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer the City of Brewer authorizes the City Manager and the Finance Director to accept donations in support of the City's Annual Stream Cleanup event to be held on May 12, 2012; and

FURTHER ORDERED, that any donations of funds be deposited in an account as determined by the City Finance Director and expended from that account for the purpose of such donation; and

FURTHER ORDERED, that the Director of Environmental Services, on behalf of the City Council, take appropriate steps to recognize the companies and individuals who made contributions to this event for their generosity and commitment to the quality of life of residents of the City of Brewer.

2012-A059

April 3, 2012

TITLE: ORDER, APPROVE CONTRACT ZONE AGREEMENT AMENDMENT OF PROPERTY FOR THE HOUSING AUTHORITY OF THE CITY OF BREWER, CHAMBERLAIN STREET/CUTLER PLACE (CITY TAX MAP 39, LOT 39).

filed March 28, 2012
by Arthur Verow

ORDERED, that the Contract zone Agreement between the City of Brewer and the Housing Authority of the City of Brewer providing for a contract zone change for the property at Chamberlain Street/Cutler Place (City Tax Map 39, Lot 39), is herewith approved; and

ORDERED, that a copy of the Contract Zone Agreement for the contract zone change for the property at Chamberlain Street is herewith attached and made a part of this order; and

FURTHER ORDERED, that the City Manager, or his designee, is herewith authorized to sign this Contract Zone Agreement on behalf of the City of Brewer.

ACTION: Councilor Verow moved that the order have passage. The motion was seconded and passed.

Councilor Doughty requested that Gordon Stitham speak regarding the project.

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Gordon Stitham spoke about the daycare program that is run by PENCAP. Will be for priority of residents.

Councilor Ferris asked if the daycare was for the general public.

Gordon Stitham said yes for residents.

Councilor Verow asked City Engineer Frank Higgins what the impact of the project would have on traffic.

Frank Higgins said it even at peak hour 95 vehicles for that one hour would be insignificant for a city street.

The order was passed by unanimous vote.

2012-A060

April 3, 2012

TITLE: ORDER, ISSUE RELEASE DEED TO JOHN CALDWELL,
7 PROSPECT STREET.

filed March 28, 2012
by Larry T. Doughty

ORDERED, that a municipal release deed be issued to John Caldwell releasing to him all rights, title and interest the City of Brewer may have acquired in the property on 7 Prospect Street (City Tax Map 33, Lot 145) by virtue of City of Brewer tax or sewer lines recorded in the Penobscot County Registry of Deeds in the following volumes and pages:

Volume	Page
12073	323
12408	52
12584	216

AND FURTHER ORDERED, that the City Manager, or his designee, is herewith authorized to execute the said municipal release deed on behalf of the City of Brewer, Maine.

NOTE: A total of \$1,025.55 in principal was collected along with \$227.98 in interest and \$159.78 in costs.

2012-A061

April 3, 2012

TITLE: ORDER, ACCEPT FIREARMS IN A FORFEITURE RESULTING FROM A RECENT COURT CASE THAT THE BREWER POLICE MADE A SUBSTANTIAL CONTRIBUTION IN THE SUCCESSFUL PROSECUTION OF.

filed March 28, 2012
by Kevin O'Connell

WHEREAS, as a result of a criminal investigation conducted by a member of the Brewer Police Department three firearms, one (1) Hatsan Arms 12 Gauge Shotgun serial number 260364, one (1) Glock Model 36 9MM handgun serial number FRA599 and Turkish made NATO caliber handgun serial number D05299 was seized and forfeited by a defendant involved in the investigation; and

WHEREAS, ~~this firearm was~~ these firearms were offered to the City in recognition of the valuable assistance of the Brewer Police Department in the successful completion of the investigation; and

WHEREAS, under Maine Law, title 15 M.R.S.A., § 5824 (3) the City Council must take a public vote before any forfeited assets can be transferred to the City;

NOW, THEREFORE BE IT ORDERED, that the City of Brewer, Maine, by vote of its City Council, does herewith approve the transfer of the said firearms as a result of the recent criminal investigation cited; and

FURTHER ORDERED, that the City Manager, or his designee, is herewith authorized to sign a memorandum to accept ~~this~~ these forfeited firearms on the behalf of the City of Brewer; and

FURTHER ORDERED, that ~~this~~ these firearms be turned over to the Brewer Police Department to be added to their inventory for law enforcement purposes.

ACTION: Councilor O'Connell moved that the order have passage. The motion was seconded.

Councilor moved that the order be amended by changing the word firearm in the title and the order to firearms and the word this to these throughout the order. The motion to amend was seconded and passed.

The order, as amended, was passed by unanimous vote.

2012-A062

April 3, 2012

TITLE: ORDER, REVIEW CHAPTER 38 OF THE CODE OF ORDINANCES
PROVISIONS ON IMPACT FEES.

filed March 28, 2012
by Arthur Verow

WHEREAS, Chapter 38 of the Code of Ordinances of the City of Brewer entitled "Development Ordinance" provides, under Section 103 for the imposition of impact fees on certain developments in the so called "Capital Improvement Districts;" and

WHEREAS, the imposition of such impact fees is left up to the discretion of the Brewer Planning Board; and

WHEREAS, the City Council has no role in decisions as to the imposition of these impact fees; and

WHEREAS, this is the only area of establishment of fees that the City Council is not directly involved in. Other areas where fees are imposed such as sewer and water utility fees and license and permit fees are set by vote of the City Council; and

WHEREAS, for the sake of consistency in the matter of fees charged by the City, it might be prudent to consider giving the City Council a role in the setting of impact fees;

NOW, THEREFORE BE IT ORDERED, that the City Manager undertake a review of Chapter 38 of the City Ordinances to determine if changes are warranted to bring its provisions, in particular those of Section 103, up to date to meet the needs of today's development industry and to give the City Council a role in setting impact fees.

ACTION: Councilor Verow moved that the order have passage. The motion was seconded and passed.

Councilor Verow wants the districts listed in the ordinance. He is concerned with the fees and wants to see the formula in the ordinance to show how it is determined.

The order was passed by unanimous vote.

2012-A063

April 3, 2012

TITLE: ORDER, AUTHORIZE CONTRACT FOR WETLAND MITIGATION
MONITORING AND REPORTING SERVICES.

filed March 28, 2012
by Larry T. Doughty

WHEREAS, Maine DEP and U.S. Army Corps of Engineers permits for the construction of Dirigo Drive in 2005 required the establishment of two wetland mitigation areas, one on Dirigo Drive and one at the Landfill on Sid Arey Drive; and

WHEREAS, these mitigation areas were constructed in 2006 and are required to be inspected annually and any identified deficiencies are required to be corrected to ensure that the goals of the mitigation agreement are fulfilled; and

WHEREAS, annual reports must be filed until 2012 with the Army Corps documenting the results of inspections and any corrective measures; and

WHEREAS, Stantec Consulting of Topsham, Maine has been retained for the last three years to perform the necessary inspection and reporting services;

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to execute a contract in an amount not to exceed \$11,050 to Stantec Consulting of Topsham, Maine for the provision of the 2012 annual inspection and reporting services, as well as for the completion of any necessary corrective measures, for the Dirigo Drive and Landfill mitigation sites; and

BE IT FURTHER ORDERED, that the City Council herewith exercises its authority under Chapter 36, Section 404 of the Charter, Codes and Ordinances of the City of Brewer in the purchasing of these consulting services; and

BE IT FURTHER ORDERED, that the cost of these services shall be charged to account 0510113-551312-00476 and funded from impact fee revenue.

ACTION: Councilor Doughty moved that the order have passage. The motion was seconded and passed.

Councilor Doughty asked City Engineer Frank Higgins to speak on the topic.

Frank Higgins said we filled 5 acres of wetlands on Dirigo Drive (beyond Penobscot Eye Care) and large area across the street near that area. We were required by the Army Corps of Engineers to mitigate other areas to wetlands, easements, etc.

Councilor Ferris asked is this was put out to bid.

Frank Higgins said no we have done this work for 3 years and we have a great relationship with them.

Councilor O'Connell asked is the pond when you go into the dump is it on the right?

Frank Higgins said no that is natural but there is a manmade one on the right as You go further.

The order was passed by unanimous vote.

2012-A064

April 3, 2012

TITLE: ORDER, AUTHORIZE FUNDING FOR DOYLE FIELD
STUDY.

filed March 28, 2012
by Joseph Ferris

WHEREAS, on March 13, 2012 the Brewer City Council voted to accept the fundraising feasibility study proposal; prepared by Ovation Fundraising Counsel LLC; and

WHEREAS, the Council wishes to appropriate funds to allow Ovation to complete the proposed fundraising study; and

WHEREAS, the City has unanticipated revenues from the State's closeout of the Hows Corner Superfund account that could be applied to this project;

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby authorizes the appropriation and expenditure of \$21,250 from account 0117111-502570 (Doyle Field) to allow Ovation Fundraising Counsel, LLC to conduct a fundraising feasibility study; and

FURTHER ORDERED that the City Council of the City of Brewer herewith exercises its authority under Section 404 of the City's Purchasing Ordinance, Chapter 36 of the Charter, Codes and Ordinances of the City of Brewer in the purchase of contractor services for this project; and

BE IT FURTHER ORDERED, that the funding for this project come from unanticipated revenue in account 0106902-300230 (FEMA/State Reimbursements).

2012-A065

April 3, 2012

TITLE: ORDER, ABATE UNCOLLECTIBLE PERSONAL PROPERTY
TAXES.

filed March 28, 2012
by Kevin O'Connell

WHEREAS, in a continued effort to clean up old personal property accounts, the Tax Collector has identified the following accounts as uncollectible;

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ORDERED, that in accordance with Title 36, M.R.S.A. §841(1) the following personal property taxes, which according to the Tax Collector's signed and notarized statement cannot be collected due to being uncollectible, are herewith abated:

<u>NAME</u>	<u>ACCT#</u>		<u>TOTALS</u>
ACADIA HYDROGEOLOGICAL	91429	business closed	23.29
ACHORN ROBERT	91851	building sold	19.06
ANTHONY SERAPIGLIA SUP	915811	BANKRUPTCY	1,188.10
ARBORTECH INC (D FLAGG)	91192	BANKRUPTCY	1,128.79
ATS INC/ GA WEST & ASSOC	91269	business closed	39.69
BARRON NICOLE/ EXOTIC TOUCH	91137	business closed	45.18
BARRY VERONICA / UNIQUE BOUTIQUE	90869	business closed	17.95
BECKWITH JAMES R	91578	new owner	34.13
BERNARD TIMOTHY	90597	new owner	8.47
BROOKS MICHAEL L	90369	new owner	8.98
BUEHLER TERRY D	91566	new owner	31.69
BURRIS STEVEN W	90769	new owner	27.97
CARBONE GAYLE S	90918	new owner	17.07
CARUSO FRANCIS E JR	90075	new owner	48.76
CASSUM CHRISTOPHER A	90496	new owner	6.55
COBB JENNIFER	91733	business closed	36.57
CRAWFORD MARY ROSE	90767	business closed	10.83
CYR ADAM B & CYR LEEANN	90449	new owner	34.14
DEMMONS DELORIS	91747	business closed	2.69
DESCHAIINE JOE	91513	business closed	9.75
DIRECTWAY INC	90691	business closed	2.77
EATON WENTWORTH/dba cottman transmissions	91581	BANKRUPTCY	4,857.29
ELLIS KATHY	91500	business closed	12.19
FISHER EMILY / ELLSI TARA	91239	business closed	12.42
FLAGG, DANIEL	91192	BANKRUPTCY	1,943.09
GARNETT CATHERINE J & DAVID	91434	new owner	34.13
GOSSELIN DONNA	90296	new owner	4.87
GRIFFIN AUSTIN & KIM	91696	new owner	4.53
GROVER DAN	90169	MOVED	45.44
HALL RICHARD W	90320	new owner	14.56
HAYWARD KRISTIN R	90702	foreclosure	9.75
HOWARD ELLEN DR.	90359	deceased	197.45
HOWES RONALD	91430	new owner	26.80
INTERSTATE BRANDS	90370	BANKRUPTCY	986.90
JORDAN DALE K	91178	business closed	34.13
JORDAN JOSEPH R & CATHY A	90288	new owner	19.50
JUNGLE MC INC	91602	BANKRUPTCY	3,037.74
LEIGHTON WESLEY E JR	90418	new owner	17.07
LEONARD ELIZABETH A & PAUL D	90668	new owner	11.34
MAIN STREET GRILL LLC	91059	business closed	43.87
MARIS BRIAN	90354	business closed	9.53
MAYHEW MICHAEL J & TRUDENCE	90467	new owner	17.07
MCDONALD STEPHEN M	90258	new owner	19.50
MCFARLANE HARTLEY R	91900	BANKRUPTCY	75.39
MCLAUGHLIN PETER	90324	new owner	11.23
MEEK JULIE	91517	business closed	23.30
MOODY BRIAN	90042	business closed	30.07
MUNER JOSEPH J TRUSTEE	90036	BANKRUPTCY	7,935.70
MURRAY NORMAN & JUDITH ELAI	91179	BANKRUPTCY	933.75
NADEAU CORA	90522	SOLD	12.71

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NELLIGAN ANNETTE	90524	new owner	14.63
PHAN JIMMU	90496	new owner	5.41
RUSTANAUIBUL CHINDA	91522	BANKRUPTCY	663.14
SECRETARY OF HOUSING AND	90673	new owner	9.75
SERENITY POWER PLUS	91726	BANKRUPTCY	243.48
SPAULDING ANDREW E	90583	new owner	14.78
STEARNS ROLLIN	91692	business closed	36.57
SWIGART CINDI DUPUIS	91638	business closed	15.85
VERGE JAMES H III VERGE CAR	91103	business closed	43.88
WEBSTER ANDREW	90778	new owner	9.12
WILLARD KAREN	90588	building sold	9.75
WINSLOW BRUCE/ WING AUTOMOTIVE	91573	business closed	5.39
WOOD CURTIS A & MIDNY L	90549	building sold	3.61
WORDEN PETER C	91564	business closed	11.47
			<u>24,210.58</u>
BANKRUPTCY (state law prevents collection)			22,993.37
Deceased			197.45
Under \$50 and business closed or is under different ownership (most more than 5 yrs ago)			<u>1,019.76</u>
			<u>24, 210.58</u>

BE IT FURTHER ORDERED, that the City Council hereby authorizes the appropriation and expenditure of \$24,210.58 from account 0105504-300499 (Adjustments/Writeoffs) to fund this expense; and

FURTHER ORDERED, that the funding for these write offs come from the unanticipated surplus in account 0119900-509100 (County Tax) that resulted from the partial refund of the City's FY12 tax payment due to Bangor not joining regional dispatch.

2012-A066

April 3, 2012

TITLE: ORDER, ADOPT A POST BOND ISSUANCE COMPLIANCE POLICY.

filed March 28, 2012
by Arthur Verow

WHEREAS, the Internal Revenue Service has increased its review of compliance with tax exempt financing provisions and is encouraging entities to implement procedures to ensure such compliance;

ORDERED, that the City Council hereby adopts the attached Post Issuance Compliance Policy for the City.

CITY OF BREWER

Post Issuance Compliance Policy Relating to Bonds Issued by the City

Adopted: _____

This policy is being adopted by the City of Brewer (the "City") in order to assure that the City complies with the requirements of federal and state law and the covenants in its bond documents that apply following the issuance of Bonds by the City. For purposes of this policy, the term "Bonds" means any obligations of the City incurred for the purpose of borrowing money, including, without limitation, bonds, notes, and equipment lease-purchase agreements.

1. Responsibility for Post-Issuance Compliance: The City Finance Director/Treasurer (the "Treasurer") is responsible for monitoring compliance with this Policy. The Treasurer may designate employees to carry out their duties under this Policy.

2. Compliance with Covenants in Bond Documents: The Treasurer shall ensure compliance with all covenants made by the City in the Bond documents, including, but not limited to, financial reporting, restrictions on the use and disposition of property, restrictions on the use and investment of Bond proceeds, and arbitrage and rebate compliance.

3. Continuing Disclosure Compliance: The City will comply with any applicable continuing disclosure requirements of Rule 15c2-12 under the Securities and Exchange Act of 1934, as amended, and officially interpreted from time to time and the terms of any continuing disclosure agreement or certificate entered by the City (each, a "Continuing Disclosure Agreement"), including the following:

(a) The City will provide the following information to the Municipal Securities Rulemaking Board or any successor thereto ("MSRB") established under the Securities and Exchange Act of 1934, as amended: (x) not later than 270 days after the end of each fiscal year, annual financial information and operating data relating to the City for the preceding fiscal year of the type presented in any Official Statement prepared in connection with the Bonds regarding: (i) revenues and expenditures of the City relating to its operating budget, (ii) capital expenditures, (iii) fund balances, (iv) rate information, (v) outstanding indebtedness and overlapping debt of the City, (vi) pension obligations of the City, and (vii) such other financial information and operating data as may be required to comply with the Rule; and (y) promptly upon their public release, the audited financial statements of the City, prepared in accordance with generally accepted accounting principles.

(b) The City will provide in a timely manner not in excess of nine (9) business days after the occurrence of an event listed in this Section 2 to the MSRB or any successor thereto, notice of the occurrence of any of the following events with respect to the Bonds:

- i. Principal and interest payment delinquencies;
- ii. Non-payment related defaults, if material;
- iii. Unscheduled draws on debt service reserves reflecting financial difficulties;
- iv. Unscheduled draws on credit enhancements reflecting financial difficulties;

- v. Substitution of credit or liquidity providers, or their failure to perform;
- vi. Adverse tax opinions, the issuance by the Internal Revenue Service of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- vii. Modifications to the rights of securities holders, if material;
- viii. Bond calls, if material, and tender offers;
- ix. Defeasances;
- x. Release, substitution, or sale of property securing repayment of the Bonds, if material;
- xi. Rating changes;
- xii. Bankruptcy, insolvency, receivership or similar event of the City; for the purposes of the event identified in this clause (I), the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or government authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City;
- xiii. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- xiv. Appointment of a successor or additional trustee or the change of name of a trustee, if material.

4. Federal Tax Law Compliance: The City will comply with the terms of each arbitrage and use of proceeds certificate or tax compliance certificate (each, an "Arbitrage and Use of Proceeds Certificate") for each issue of Bonds issued by the City and with the applicable provisions of federal tax law. Without limitation of the foregoing, the City shall take the following actions:

(a) Proper Use of Proceeds — The Treasurer shall ensure that bond proceeds are expended and allocated to expenditures in a manner that is consistent with the purpose for which each bond issue is undertaken, as set forth in any Arbitrage and Use of Proceeds Certificate or agreement related to each bond issue.

(b) Investment of Bond Proceeds — The Treasurer shall ensure that bond proceeds are invested in investments that are permissible under the terms of Maine law, the bond documents, and applicable federal tax laws.

(c) Arbitrage and Rebate — The Treasurer shall ensure that the City complies with the arbitrage, rebate and yield restriction requirements of Section 148 of the Internal Revenue Code and the regulations promulgated pursuant thereto and that the City completes all necessary arbitrage rebate calculations, payments and filings in a timely manner or confirms that the Bonds are exempt from rebate.

(d) Administration of Direct Pay Bonds — The Treasurer shall ensure the proper administration of each issue of Bonds qualifying for the payment by the Federal government of a credit equal to a percentage of interest on such Bonds, including the timely completion and filing of any forms required by the Internal Revenue Service to maintain or establish the applicable status of the Bonds for purposes of federal income taxation.

(e) Use of Bond-Financed Facilities — The Treasurer shall consult with Bond Counsel for the City before entering into any agreement or other arrangement for the sale, lease, management or use of bond-financed property, including, but not limited to, service, vendor, and management contracts, research agreements, licenses to use bond-financed property, agreements granting special rights or entitlements to private parties or naming rights agreements. The Treasurer shall review such agreements for compliance with federal tax laws.

(f) Post-Issuance Transactions — The Treasurer shall consult with Bond Counsel for the City before making any modifications or amendments to the bond documents for a bond issue, including, but not limited to, entering or modifying investment agreements; making any change in security for the Bonds; engaging in post-issuance credit enhancement transactions (e.g., bond insurance, letter of credit) or hedging transactions (e.g., interest rate swap, cap); terminating or appointing successor trustees; releasing any liens, or reissuing or refunding the Bonds.

(g) Remedial Action — In the event that is determined that any use of bond proceeds or bond-financed facilities is inconsistent with the character of the status for federal income tax purposes of the Bonds, the Treasurer shall consult with the City's Bond Counsel for the purpose of determining the nature and extent of any remedial action necessary or proper for the City to take with respect to such Bonds or bond-financed facilities. If the City takes any action after the issuance of Bonds that causes the conditions of the private business tests or the private loan financing test to be met, then the City shall take timely remedial actions in accordance with the federal Treasury Regulations section 1.141-12 as necessary in order to preserve the tax-exempt status of the Bonds.

5. Record Retention: The City shall maintain all records relating to the issuance of Bonds and the requirements of the Internal Revenue Code and the representations, certifications and covenants set forth in the Arbitrage and Use of Proceeds Certificate relating to the issuance of Bonds until the date six years after the last outstanding Bonds have been retired. If any of the Bonds are refunded by tax-exempt obligations, the City shall maintain all records required to be retained by this section until the later of the date six years after the last outstanding Bonds have been retired or the date three years after the last refunding obligations have been retired. The records that must be retained include, but are not limited to (a) basic records and documents relating to the Bonds (including any loan agreement, Arbitrage and Use of Proceeds Certificate

and the opinion of Bond Counsel); (b) documentation evidencing the expenditure of Bond proceeds; (c) documentation evidencing the use of the project(s) financed by the Bonds by public and private sources (i.e., copies of management contracts, research agreements, leases, etc.); (d) documentation evidencing all sources of payment or security for the Bonds; and (e) documentation pertaining to any investment of Bond proceeds (including the purchase and sale of securities, SLGS subscriptions, yield calculations for each class of investments, actual investment income received from the investment of proceeds, guaranteed investment contracts, and rebate calculations).

6. Annual Policy Review and Education: On an annual basis, or sooner if deemed necessary or appropriate by the Treasurer, the Treasurer shall review this policy and assess the City's compliance with this Policy. The Treasurer shall make changes to this Policy as appropriate to ensure compliance with any covenants in the bond documents or the requirements of federal tax and securities law and any other applicable law. The City will also implement a program, including appropriate instruction and education of personnel, for purposes of ensuring compliance with the terms of this Policy.

2012-A067

April 3, 2012

TITLE: ORDER, ACCEPT FUNDS IN SUPPORT OF THE BREWER
BICENTENNIAL CELEBRATION.

filed March 28, 2012
by Joseph Ferris

WHEREAS, the City of Brewer has received a \$250.00 donation from C.E.S. and a \$500.00 donation from Machias Savings Bank designated for the support of the Brewer Bicentennial celebration;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts these donations and directs that these funds be deposited in the Bicentennial Revenue account (0300100-320000); and

FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of these funds from the Bicentennial Expense account (0300100-520000);

FURTHER ORDERED, that the Brewer Bicentennial Committee send a letter of acknowledgement and appreciation to both C.E.S. and Machias Savings Bank for their organization's generous donations.

2012-B016

April 3, 2012

TITLE: RESOLVE, APPROVE LIQUOR LICENSE APPLICATION OF
MEI YA ZHANG D/B/A AWESOME BUFFET, INC.,
274 STATE STREET.

filed March 28, 2012
by Larry T. Doughty

WHEREAS, Mei Ya Zhang d/b/a Awesome Buffet, Inc., 274 State Street has applied to the State of Maine, Bureau of Liquor Enforcement, for a Restaurant Class I, II, II, and IV (malt, spirituous and vinous) liquor license; and

WHEREAS, the Brewer City officials have reviewed this application and done background checks on the applicant and have submitted recommendations to the City Council on this application; and

WHEREAS, after considering their recommendations the City Council finds as follows:

1. The applicant has not been convicted of any Class A, Class B, or Class C crime;
2. The licensed premises and its use are in compliance with all local zoning ordinances and other land use ordinances not directly related to liquor control;
3. There is no record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by person patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises which unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;
4. There is no record of repeated incidents of record of breaches of peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; and
5. There is no record of the applicant having a violation of any provisions of Title 28-A, M.R.S.A. (Liquor Laws).

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council approves the application of Mei Ya Zhang d/b/a Awesome Buffet, Inc., 274 State Street , for a State of Maine, Bureau of Liquor Enforcement, for a Restaurant Class I, II, III and IV (malt, spirituous and vinous) liquor license.

D. Monthly Reports.

There were no monthly reports.

E. Nominations, Appointments, Elections.

2012-A068

April 3, 2012

TITLE: ORDER, ISSUE WARRANT FOR JUNE 12, 2012 CITY OF BREWER SCHOOL BUDGET APPROVAL AND CITY OF BREWER CHARTER AMENDMENT ELECTION AND SET POLLING HOURS FOR JUNE 12, 2012 CITY OF BREWER SCHOOL BUDGET APPROVAL AND CITY OF BREWER CHARTER AMENDMENT ELECTION AND STATE OF MAINE PRIMARY AND REFERENDUM ELECTION.

filed March 28, 2012
by Arthur Verow

WHEREAS, the City of Brewer School Budget Approval and City of Brewer Charter Amendment Election will be held on Tuesday, June 12, 2012; and

WHEREAS, Title 21-A, M.R.S.A., Section 626(1) provides that the polls must be opened no earlier than 6:00 a.m. and no later than 9:00 a.m. on election day; and

WHEREAS, Title 21-A, M.R.S.A., Section 626(1) further provides that the municipal officers shall determine the time of opening the polls within the time limits of 6:00 a.m. to 9:00 a.m.; and

WHEREAS, a poll opening time of 7:00 a.m. will, in the judgment of the municipal officers, meet the needs of the municipality for the June 12, 2012 election;

NOW, THEREFORE, BE IT ORDERED, that the municipal officers herewith set the time of 7:00 a.m. for opening the polls for the June 12, 2012 City of Brewer School Budget Approval and City of Brewer Charter Amendment Election; and

FURTHER ORDERED, that the municipal officers issue a warrant for the City of Brewer School Budget Approval and City of Brewer Charter Amendment Election to be held on June 12, 2012 with the polls to open at 7:00 a.m. and close at 8:00 p.m.

**CITY OF BREWER
MUNICIPAL ELECTION**

Penobscot ss.

State of Maine

To: _____, a Constable in the City of Brewer.

You are hereby required in the name of the State of Maine to notify the voters of the City of Brewer of the election described in this warrant.

**TO THE VOTERS OF THE CITY OF BREWER
WARD 1, PRECINCTS 1 AND 2**

You are hereby notified that the municipal school budget approval and municipal charter amendment election in the municipality will be held at the Brewer Auditorium on Tuesday, the twelfth day of June, 2012 for the purpose of affecting the approval of:

Article 1: Do you favor approving the City of Brewer school budget for the upcoming school year that was adopted at the City Council meeting held on June 5, 2012?

Article 2: Do you favor approving adding a Section 8 to Article III of the Brewer City Charter to include a provision that the City Council shall require, as a condition of employment, that the Superintendent of Schools become a resident of the City of Brewer within three (3) years after he or she begins employment as the Superintendent of Schools and the beginning date of the earliest contract shall cause the three (3) year period within which the Superintendent of Schools must establish residency in the City of Brewer to begin to run.?

The polls shall be opened at 7:00 A.M. and close at 8:00 P.M.

The Registrar of Voters shall hold office hours while the polls are open to correct any error in or change a name or address on the voting list, to accept the registration of any person eligible to vote and to accept new registrations.

A person who is not registered as a voter may not vote in any election.

Dated at Brewer, Maine this ____ day of _____ in the year of Our Lord, Two Thousand Twelve.

Majority of the Municipal Officers of Brewer

ACTION: Councilor Verow moved that the order have passage. The motion was

seconded and passed.

The order was passed by unanimous vote.

2012-B017

April 3, 2012

TITLE: RESOLVE, PRESCRIBE REGISTRAR OF VOTERS HOURLY SCHEDULE FOR THE JUNE 12, 2012 CITY OF BREWER SCHOOL BUDGET APPROVAL AND CITY OF BREWER CHARTER AMENDMENT ELECTION AND STATE OF MAINE PRIMARY AND REFERENDUM ELECTION.

filed March 28, 2012
by Larry T. Doughty

WHEREAS, the City of Brewer School Budget Approval and City of Brewer Charter Amendment Election will be held on Tuesday, June 12, 2012; and

WHEREAS, Title 21-A M.R.S.A., Section 122 (6)(A)(2) provides in part, that in a municipality with a population of more than 2,500, the Registrar of Voters shall accept registrations on the last 5 business days before election day, during the hours that the city clerk's office is open (8:00 a.m. – 5:00 p.m.) and for 2 hours in the evening between 5:00 p.m. and 9:00 p.m. on at least 3 of these days; and

WHEREAS, the City of Brewer has a population greater than 2,500 according to the 2010 federal census; and

WHEREAS, Title 21-A M.R.S.A., Section 122 (8) provides that the hourly schedule may be changed by the municipal officers according to the needs of the municipality; and

WHEREAS, the Registrar of Voters suggests that the needs of the municipality are sufficiently met with the 8:00 a.m. to 5:00 p.m. daily schedule and with election day voter registration so that it is not necessary for the Registrar of Voters to hold office hours and accept registrations during evening hours between 5:00 p.m. and 9:00 p.m. on at least 3 of the days during the last 5 business day period prior to the election; and

WHEREAS, the municipal officers concur with this assessment by the Registrar of Voters;

NOW, THEREFORE, BE IT ORDERED, that the municipal officers herewith prescribe the hours of registration as 8:00 a.m. to 5:00 p.m. on the five business days next prior to the City election to be held on June 12, 2012.

ACTION: Councilor Doughty moved that the resolve be adopted. The motion was

seconded and passed.

The resolve was adopted by unanimous vote.

F. Unfinished Business.

2012-C002

March 13, 2012

TITLE: AMEND CHAPTER 8, ENTITLED "ELECTIONS", ARTICLE 4, BREWER REGISTRATION APPEALS BOARD, SECTION 405, RULES FOR CONDUCTING THE MEETINGS, OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER.

filed March 7, 2012
by Kevin O'Connell

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 8 Entitled "Elections", Article 4, Brewer Registration Appeals Board, Section 405, Rules for Conducting the Meetings, of the Charter, Codes and Ordinances of the City of Brewer be amended as follows:

ARTICLE 4. BREWER REGISTRATION APPEALS BOARD.

SECTION 405. RULES FOR CONDUCTING THE MEETINGS. All meetings shall be conducted in accordance with Maine Revised Statutes and this Ordinance. If neither controls the affairs of the meeting, the meeting shall ~~be conducted in accordance with Robert's Rules of Order (1983 ed.)~~ use the 2007 edition of "The Modern Rules of Order" by the Pennsylvania Bar Institute. The Board may adopt additional rules of order as long as the adopted rules are not inconsistent with State Law. If there is conflict between The Modern Rules of Order, adopted rules of order and State Law, State Law prevails.

ACTION: Councilor O'Connell moved that the proposed ordinance amendment be enacted. The motion was seconded.

Councilor O'Connell moved that the proposed ordinance amendment be amended as follows:

AMENDMENT:

Strike out the words "the Pennsylvania Bar Institute" in the second line of the paragraph. Also add the words "Donald Tortorice" after the word by in the second line of the paragraph. The motion was seconded and passed.

The proposed ordinance amendment, as amended, was enacted by unanimous vote.

2012-C003

March 13, 2012

TITLE: AMEND CHAPTER 5, ENTITLED “ASSESSOR”, ARTICLE 2,
THE BOARD OF ASSESSMENT REVIEW, SECTION 206,
RULES OF ORDER, OF THE CHARTER, CODES AND
ORDINANCES OF THE CITY OF BREWER.

filed March 7, 2012
by Joseph Ferris

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 5 Entitled “Assessor”, Article 2, The Board of Assessment Review, Section 206, Rules of Order, of the Charter, Codes and Ordinances of the City of Brewer be amended as follows:

ARTICLE 2. THE BOARD OF ASSESSMENT REVIEW.

SECTION 405. RULES FOR CONDUCTING THE MEETINGS. ~~All meetings of the Board shall be conducted in accordance with Robert’s Rules of Order unless the Board shall adopt its own rules which shall supersede Robert’s Rules of Order to the extent they are applicable.~~ All meetings shall be conducted in accordance with Maine Revised Statutes and this Ordinance. If neither controls the affairs of the meeting, the meeting shall use the 2007 edition of “The Modern Rules of Order” by the Pennsylvania Bar Institute. The Board may adopt additional rules of order as long as the adopted rules are not inconsistent with State Law. If there is conflict between The Modern Rules of Order, adopted rules of order and State Law, State Law prevails.

ACTION: Councilor Ferris moved that the proposed ordinance amendment be enacted.
The motion was seconded.

Councilor O’Connell moved that the proposed ordinance amendment be amended as follows:

AMENDMENT:

Strike out the words “the Pennsylvania Bar Institute” in the second line of the paragraph. Also add the words “Donald Tortorice” after the word by in the second line of the paragraph.
The motion was seconded and passed.

The proposed ordinance amendment, as amended, was enacted by unanimous vote.

G. New Business.

2012-C004

April 3, 2012

TITLE: AMEND THE LAND USE CODE, CHAPTER 24, OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER TO CHANGE PROPERTY FROM PROFESSIONAL BUSINESS DISTRICT (PB) TO GENERAL BUSINESS DISTRICT (GB) IN THE AREA OF DIRIGO DRIVE, GREEN POINT ROAD AND SPARKS AVENUE (CITY TAX MAP 7, LOTS 7G, 7J, 16, 16B, 16C AND ALSO THE PARCEL ON DIRIGO DRIVE BEING A PORTION OF BOOK 7294, PAGE 333 SECOND PARCEL [WHICH IS A TRIANGLE-SHAPED PARCEL ABUTTING TAX MAP 7, LOT 7J]).

filed March 28, 2012
by Arthur Verow

Be it ordained by the City of Brewer in City Council assembled that Chapter 24 of the Charter, Codes and Ordinances of the City of Brewer entitled "Land Use Code" of the City of Brewer, Maine be amended by changing property from Professional Business District (PB) to General Business District (GB) in the area of Dirigo Drive, Green Point Road and Sparks Avenue (City Tax Map 7, Lots 7G, 7J, 16, 16B, 16C and also the parcel on Dirigo Drive being a portion of Book 7294, Page 333 Second Parcel [which is a triangle-shaped parcel abutting Tax Map 7, Lot 7J.

ACTION: Councilor Verow moved that one copy of the proposed ordinance amendment be certified and filed with the City Clerk for posting. The motion was seconded and passed by unanimous vote.

2012-C005

April 3, 2012

TITLE: AMEND CHAPTER 1, ENTITLED "THE CITY COUNCIL", ARTICLE 5, CITY BOARDS, COMMITTEES AND COMMISSIONS, SECTION 502.6 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER.

filed March 28, 2012
by Joseph Ferris

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 1 Entitled "The City Council", Article 5, City Boards, Committees and Commissions, Section 502.6 of the Charter, Codes and Ordinances of the City of Brewer be amended as follows:

ARTICLE 5. CITY BOARD, COMMITTEES AND COMMISSIONS.

SECTION 502. POLICY AND GUIDELINES.

SECTION 502.6. Boards shall use ~~the 2007 edition of~~ “The Modern Rules of Order” by ~~the Pennsylvania Bar Institute~~ Donald A. Tortorice, or they may adopt supplemental rules of order for the conduct of hearings and meetings and the reporting, taping, filming or recording of public hearings and meetings. The Board may adopt additional rules of order as long as the adopted rules are consistent with State Law. If there is conflict between The Modern Rules of Order and adopted rules of order and State Law, State Law prevails. A copy of these rules shall be filed in the City Clerk’s Office.

ACTION: Councilor Ferris moved that one copy of the proposed ordinance amendment be certified and filed with the City Clerk for posting. The motion was seconded and passed by unanimous vote.

2012-A069

April 3, 2012

TITLE: ORDER, REFERRAL TO THE CITY OF BREWER PLANNING BOARD BY CITY COUNCIL INITIATIVE PURSUANT CHAPTER 24, LAND USE CODE OF THE CITY OF BREWER, ARTICLE 1, GENERAL SECTION 108.1 INITIATIVE TO AMEND.

filed March 28, 2012
by Arthur Verow

WHEREAS, the City Council has the authority to initiate proposed revisions to the Land Use Code of the City of Brewer, pursuant to Article 1, Section 108.1 of the Land Use Code of the City of Brewer; and

WHEREAS, the City Council believes the City of Brewer Planning Board should hold a public hearing and make recommendations up its proposed amendments to the Land Use Code of the City of Brewer on yard and area variations;

NOW, THEREFORE, BE IT ORDERED, that the following proposed ordinance revisions be referred to the City of Brewer Planning Board pursuant to Article 1, Section 108.1 of the Land Use Code of the City of Brewer for the purposes of the Planning Board holding a public hearing and making its recommendations to the City Council:

~~Yard and Area Variations:~~

~~Notwithstanding the area and yard requirements for the various zoning districts the Code Enforcement Officer shall allow the following variations from district standards after first notifying abutting property owners of record:~~

~~A. — Front yard setback may be reduced to the average setback of the primary use structures on~~

- ~~lots within 300 feet on either side of the subject parcel and in continuous frontage with said parcel.~~
- ~~B. A reduction of up to 10% of the applicable side and/or rear yard minimum setback requirement.~~
- ~~C. A reduction in lot area or lot width or an increase in maximum height or maximum lot coverage of up to 5% of the applicable district standard, and in no case will additional variations in development standards be permitted which would allow the cumulative variation to exceed the limits prescribed in Subsections A through C.~~

ACTION: Councilor Verow moved that the order have passage. The motion was seconded.

Councilor Verow moved that the order be amended by complete substitution with the following order. The motion was seconded and passed.

2012-A069

April 3, 2012

TITLE: ORDER, REFERRAL TO THE CITY OF BREWER PLANNING BOARD BY CITY COUNCIL INITIATIVE PURSUANT CHAPTER 24, LAND USE CODE OF THE CITY OF BREWER, ARTICLE 1, GENERAL SECTION 108.1 INITIATIVE TO AMEND.

filed March 28, 2012
by Arthur Verow

WHEREAS, the City Council has the authority to initiate proposed revisions to the Land Use Code of the City of Brewer, pursuant to Article 1, Section 108.1 of the Land Use Code of the City of Brewer; and

WHEREAS, the City Council believes the City of Brewer Planning Board should hold a public hearing and make recommendations up its proposed amendments to the Land Use Code of the City of Brewer on yard and area variations;

NOW, THEREFORE, BE IT ORDERED, that the following proposed ordinance revisions be referred to the City of Brewer Planning Board pursuant to Article 1, Section 108.1 of the Land Use Code of the City of Brewer for the purposes of the Planning Board holding a public hearing and making its recommendations to the City Council:

The order, as amended, was passed by unanimous vote.

2012-A070

April 3, 2012

TITLE: ORDER, CONVENE IN EXECUTIVE SESSION PURSUANT TO
TITLE 1, M.R.S.A. §405(6)(E) ON A LEGAL MATTER.

filed March 28, 2012
by Kevin O'Connell

ORDERED, that the City Council convene in executive session pursuant to Title 1,
M.R.S.A. §405(6)(E) on a legal matter.

ACTION: Councilor O'Connell moved that the order be withdrawn. The motion was
seconded and passed by unanimous vote.

2012-A071

April 3, 2012

TITLE: ORDER, CONVENE IN EXECUTIVE SESSION PURSUANT TO
TITLE 1, M.R.S.A. §405(6)(A) ON A PERSONNEL
MATTER.

filed March 28, 2012
by Joseph Ferris

ORDERED, that the City Council convene in executive session pursuant to Title 1,
M.R.S.A. §405(6)(A) on a personnel matter.

ACTION: Councilor Ferris moved that the order be withdrawn. The motion was
seconded and passed by unanimous vote.

H. Items with Leave of Council.

The following order was introduced under suspension of the rules. The City Clerk polled the
council and unanimous consent was obtained to take up this item.

2012-A072

April 3, 2012

TITLE: ORDER, AUTHORIZE THE CITY MANAGER, OR HIS, DESIGNEE, TO SIGN A MUNICIPAL/STATE AGREEMENT WITH THE MDOT FOR COMPLETION OF THE PENOBSCOT LANDING TRAIL PROJECT.

filed April 2, 2012
(under suspension of the rules)
by Larry T. Doughty and
Arthur Verow

EMERGENCY PREAMBLE

WHEREAS, orders passed by the Brewer City Council do not become effective until five days after approval unless such orders contain emergency preambles; and

WHEREAS, it is imperative to have the agreement executed immediately so the work may begin on this project; and

WHEREAS, these facts create an emergency within the meaning of the Charter, Code and Ordinances of the City of Brewer and require that the following order become effective immediately upon its approval to protect the public health, common welfare and safety of the citizens of Brewer;

WHEREAS, the City of Brewer has received a Federal Grant for construction of a Penobscot Landing Trail Project; and

WHEREAS, the Federal Grant requires 20% cost share by the City; and

WHEREAS, the City has funds set aside for the Waterfront Trail project as well as related funds in the now completed Shore Stabilization account; and

WHEREAS, the MDOT has completed the design of the project and is now ready to bid the project for construction this summer;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith authorizes the City Manager, or his designee, to execute a Municipal/State Agreement, and any other related documents, with the Maine Department of Transportation for the completion of the Penobscot River Trail Project (MDOT Work Identification Number 11835); and

BE IT FURTHER ORDERED, that the Brewer City Council herewith authorizes the appropriation and expenditure of up to \$200,000 from account 0510121-551102 (Waterfront Trail) to cover the City's anticipated 20% cost share for this project; and

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FURTHER ORDERED, that the City Council authorizes the reallocation of \$100,000 in surplus capital funds from account 0510101-551101 (Shore Stabilization) to account 0510121-551102 (Waterfront Trail) to support the cost share for this project.

ACTION: Councilor Doughty moved that the order have passage. The motion was seconded.

Councilor Ferris that the order be amended by adding an emergency preamble. The motion was accepted and passed by unanimous vote.

The order, as amended, was passed by unanimous consent.

Chairman Goss said he would accept a motion for adjournment.

ACTION: Councilor Doughty moved that the meeting be adjourned. The motion was seconded and passed by unanimous vote. The meeting adjourned at 7:14 p.m.

ADJOURNED, ATTEST: _____ Howard F. Kroll

City Clerk

A TRUE COPY, ATTEST: _____ Brewer, Maine